IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

WP(C).No. 30933 of 2006(G)

AGAINST THE ORDER IN CMA.43/2005 &
CMA.40/2005 of DISTRICT COURT, KOTTAYAM
OS.340/2005 of ADDL.M.C., KOTTAYAM

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PETITIONER:

DILIP K. JOHN, AGED 45 YEARS,
S/O.KURIAN JOHN, KIZHAKKEKKARA HOUSE,
PAYYAPPADY P.O., PAYYAPPADY VILLAGE.

BY ADV. SRI.MOHAN JACOB GEORGE
SMT.P.V.PARVATHI
SMT.REENA THOMAS
SRI.TITUS THOMAS

RESPONDENTS:

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1. CHEVALIER T. THOMAS EDUCATIONAL TRUST,
16, ST.MARY'S ROAD, SEMBIUM,
CHENNAI-600.
REPRESENTED BY ITS MANAGING TRUSTEE &
CORRESPONDENT L. PALAMALAI I.A.S. (RETD.).

2. MRS.ALEYAMMA MARKOSE,
AGED ABOUT 50 YEARS, SECRETARY, STAFF COUNCIL,
MARIAN SENIOR SECONDARY SCHOOL,
KOTTAYAM-10.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 30933 OF 2006

Dated 7th December 2006

JUDGMENT

Petitioner is the plaintiff in O.S.340/05 on the file of Additional Munsiff court, Kottayam. Suit was filed seeking a decree for injunction. I.A.1465/2005 was filed under Order XXXIX Rule 1 of the Code of Civil Procedure for an order of temporary injunction till the disposal of the suit. Under Ext.P9 order learned Munsiff found that petitioner is not entitled to the order of temporary injunction. But defendants were restrained from dispossessing the petitioner otherwise than by due process of law. Ext.P9 order was challenged before District court in C.M.A Nos.40/05 and 43/05 by defendants and plaintiff respectively. Under Ext.P12 order, learned District Judge confirmed the order of learned Munsiff that petitioner is not entitled to the order of temporary injunction but vacated the order as against respondents holding that petitioner is only a licensee. Challenging the said order this petition was

filed under Article 227 of Constitution of India.

2. Learned counsel appearing for petitioner was heard.

3. Though it was contended by petitioners that learned District Judge had relied on Ext.B8 order of Madras High Court which was subsequently set aside and it should not have been relied on and therefore interference is warranted in Ext.P12 order of the District Judge on going through Exts.P9 and P12 orders, I do not find any infirmity. Both the courts found that petitioner has no prima facie case as he is only a licensee and hence is not entitled to the order of temporary injunction sought for. Exercising the extra ordinary or supervisory jurisdiction of this court, I find no reason to interfere with the orders. Learned Munsiff is directed to dispose of the suit untrammelled by any observation in Exts.P9 and P12 orders expeditiously.

Writ petition is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.